

NOTICE OF PUBLIC HEARING
TO CONSIDER ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R5-2008-0550
ISSUED TO
ROBERT L. FRENCH
CIRCLE A GAS STATION
MARYSVILLE, YUBA COUNTY

**NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD
BEFORE THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
CENTRAL VALLEY REGION (REGIONAL BOARD)
ON 11/12 SEPTEMBER 2008**

Background

The Assistant Executive Officer has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code (CWC) sections 13323 and 13350 against Robert L. French (Discharger) alleging that he has violated provisions of Cleanup and Abatement Order (CAO) No. R5-2006-0722. The Complaint proposes that administrative civil liability in the amount of \$50,000 be imposed as authorized by CWC section 13350. A hearing will be held before the Regional Board during its meeting of 11/12 September 2008.

Purpose of Hearing

The purpose of the hearing is to receive relevant evidence and testimony regarding the proposed ACL Complaint. At the hearing, the Regional Board will consider whether to adopt the proposed assessment, modify it, or reject it. If it adopts an assessment the Regional Board will issue an Administrative Civil Liability Order.

The public hearing on 11/12 September 2008 will commence at 8:30 am or as soon thereafter as practical, or as announced in our Board meeting agenda. The meeting will be held at:

Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Regional Board's web page at:

http://www.waterboards.ca.gov/centralvalley/board_info/meetings/

Hearing Procedures

A copy of the procedures governing an adjudicatory hearing before the RWQCB may be found at Title 23 of the California Code of Regulations, § 648 et seq., and is available at <http://www.swrcb.ca.gov> or upon request. Except as provided in Title 23 of the California Code of Regulations (CCR), § 648(b), Chapter 5 of the Administrative Procedures Act (commencing with § 11500 of the Government Code) does not apply to adjudicatory hearings before the RWQCB. This Notice provides additional requirements and deadlines related to the proceeding. THIS NOTICE MAY BE AMENDED BY THE ADVISORY STAFF AS NECESSARY. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participation

Participants in this proceeding are designated as either “parties” or “interested persons.” Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Enforcement Staff
- (2) Robert L. French, referred to as the Discharger

Contacts

Advisory Staff:

Ms. Lori Okun, Senior Staff Counsel
State Water Resources Control Board Office of Chief Counsel
1001 I Street, Sacramento, CA 95814
(916) 341-5165
Fax (916) 341-5199
lokun@waterboards.ca.gov

Ms. Pamela Creedon, Executive Officer
Mr. Ken Landau, Assistant Executive Officer
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
(916) 464-4726
Fax (916) 464-4758
pcreedon@waterboards.ca.gov
klandau@waterboards.ca.gov

Enforcement Staff:

Mr. Jack Del Conte, Assistant Executive Officer
Mr. Brian Newman, Supervising WRC Engineer
Mr. Joseph Mello, Sr. Engineering Geologist
Mr. Michael Kenning, Engineering Geologist
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
The primary contact for the Enforcement Staff is Brian Newman
(916) 464-4834
bnewman@waterboards.ca.gov

Discharger:

Mr. Robert L. French
1308 W. Robinhood Drive, Suite #14
Stockton, CA 95207-5508
Rfrenchwts@aol.com

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Enforcement Staff) have been separated from those who will provide advice to the Regional Board (Advisory Staff). Members of the Advisory Staff are: Pamela Creedon, Executive Officer, Ken Landau, Assistant Executive Officer, and Lori T. Okun, Senior Staff Counsel. Members of the Enforcement Staff are: Mr. Jack Del Conte, Assistant Executive Officer, Mr. Brian Newman, Supervising WRC Engineer, Mr. Joseph Mello, Sr. Engineering Geologist, and Mr. Michael Kenning, Engineering Geologist.

Patrick Pulupa, staff counsel for the Regional Water Board, will be advising the prosecution team for this agenda item. Mr. Pulupa regularly advises the Board on legal issues unrelated to this case, but has had no communications with them regarding this case. Objections to his participation must be submitted to Lori Okun in writing or by email, by **noon on 4 September 2008**, or they will be waived.

Ex Parte Communications

The designated parties and interested persons are prohibited from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Regional Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested party on the one hand, and a Regional Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties or made at a proceeding open to all other parties and interested persons (if verbal). Communications

regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not *ex parte* contacts.

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party shall request party status by submitting a request in writing (with copies to the designated parties) no later than **noon on 29 August 2008** to Ms. Lori Okun. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. The parties will be notified in writing prior to the hearing whether the request has been granted or denied.

Hearing Procedures

To ensure that all participants have an opportunity to participate in the hearing, the time limits delineated in the attached hearing procedures shall apply. Each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Additional time may be provided at the discretion of the hearing officer upon a showing that additional time is necessary. Additional information regarding the order of presentation is included in the attached Hearing Procedure, Agenda Item # 9.

Written Evidence, Testimony, Exhibits and Policy Statements

The period for submitting written comments and evidence to the Regional Water Board, as announced in the Cover Letter that accompanied the Administrative Civil Liability Complaint, issued on 8 July 2008, closed at 5:00 p.m. on 31 July 2008. The prosecution team submitted a Staff Report, proposed Order and draft Buff Sheet for the 11/12 September meeting. No further written comments or evidence will be accepted unless a party demonstrates good cause for the late submission and that no person, including the Regional Water Board, will be prejudiced by the late submission. A demonstration of good cause shall include the reasons the materials could not have been submitted earlier. Requests for late submissions will be decided by the Chair.

In accordance with Title 23, CCR, Section 684.4, the Regional Water Board endeavors to avoid surprise testimony or evidence. Power Point and other computer assisted visual presentations may be, but are not required to be, submitted prior to the hearing. Instructions for submittal of Power Point or other electronic materials are included in the Agenda for the 11/12 September 2008 Board meeting. Any witness providing written testimony shall appear at the hearing and affirm that the written testimony is true and correct.

Interested persons may submit one (1) copy of non-evidentiary policy statements by the close of the hearing.

Procedural Objections

Any objections to this notice or the hearing procedures must be stated at the beginning of the hearing, before staff testimony. Objections that are not made at or before that time will be waived. Parties are encouraged to submit procedural objections to Lori Okun in writing before the hearing. However, except as stated above under "Separation of Functions," parties are not required to submit objections in advance.

Evidentiary Documents and File

The Complaint, related evidentiary documents and comments received are on file and may be inspected or copied at the Regional Board office at:

11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

Many of these documents are also posted on-line at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/

Although the web page is updated regularly, to assure access to the latest information, you may contact Joseph Mello at (916) 464-4661.

Auxiliary Aids and Services

The hearing facilities will be accessible to persons with disabilities. Individuals requiring special accommodations are requested to contact Ms. Kiran Lanfranchi-Rizzardi at (916) 464-4839 at least 5 working days prior to the meeting. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

Questions

Questions concerning this proceeding may be addressed to Joseph Mello at (916) 464-4661.

Kenneth D. Landau, Assistant Executive Officer

26 August 2008